

UNITED STATES DISTRICT COURT  
WESTERN DISTRICT OF WASHINGTON  
AT SEATTLE

PHONSAVANH PHONGMANIVAN,

Petitioner,

v.

MARGARET GILBERT,

Respondent.

CASE NO. C16-0556-RAJ

ORDER OF DISMISSAL

The Court, having reviewed the Report and Recommendation (Dkt. # 17) of the Honorable Mary Alice Theiler, United States Magistrate Judge, the parties' objections thereto (Dkt. ## 18, 19, 20), and the remaining record, finds and Orders as follows:

1. The Court adopts the Report and Recommendation;
2. Petitioner's habeas petition is DENIED as time barred, and this action is DISMISSED with prejudice;
3. A certificate of appealability is GRANTED with respect to petitioner's claim that he is entitled to equitable tolling of the statute of limitations based on the unavailability of certain transcripts. A certificate of appealability is DENIED as to all other claims raised in petitioner's federal habeas petition and traverse. *See* 28 U.S.C. § 2253; and

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